

## **TENTATIVE RULINGS for CIVIL LAW and MOTION**

### **April 28, 2010**

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at [www.yolo.courts.ca.gov](http://www.yolo.courts.ca.gov). If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6941

#### **TENTATIVE RULING**

**Case:** Allen v. Raley's Inc.

**Case No. CV CV 08-2591**

**Hearing Date:** April 28, 2010 **Department Fifteen** **9:00 a.m.**

Defendant Raley's Inc.'s motion for summary judgment or, in the alternative, summary adjudication is **DENIED**. (Code Civ. Proc., § 437c.) Plaintiff submitted evidence to show that there are triable issues of material fact concerning his first and second causes of action and his request for punitive damages. (Gov. Code, § 12940, subd. (k); *Trujillo v. North Co. Transit Dist.* (1998) 63 Cal.App.4th 280, 284, 289; *Richards v. CH2M Hill, Inc.* (2001) 26 Cal.4th 798, 823; *White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, 566-567; Defendant's Undisputed Material Facts 1-26; Plaintiff's Separate Statement of Undisputed Material Facts 4-20, 22-37, 39-70-72, 74-78-80, 82-87 and 90.)

Defendant's objections to plaintiff's evidence numbers 1, 13, 23, 25, 33, 37, 45, 46, 62, 64, 65, 79, and 80 are **SUSTAINED**. (Evid. Code, §§ 350, 702, 800, 801, 1200 and 1400.) Defendant's objections are **OVERRULED**.

If no hearing is requested, Defendant is directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c, subdivision (g) and California Rules of Court, rule 3.1312.

#### **TENTATIVE RULING**

**Case:** Beesley v. K.H. Moss Co.

**Case No. CV CV 09-1189**

**Hearing Date:** April 28, 2010 **Department Fifteen** **9:00 a.m.**

This matter is **CONTINUED** on the Court's own motion to Thursday, May 6, 2010, in Department Fourteen, at 8:30 a.m.

### **TENTATIVE RULING**

**Case:** County Fair Fashion Mall, LLC v. Fireman's Fund Ins. Co.  
Case No. CV CV 09-80

**Hearing Date:** April 28, 2010 **Department Eight** **9:00 a.m.**

Defendants Fireman's Fund Insurance Company and American Insurance Company's motion to compel further responses to demand for production of documents and request for sanctions is **GRANTED IN PART**. (Code Civ. Proc., §§ 2023.010 *et seq.* & 2030.300 *et seq.*; Dec. of Peterson ¶¶ 1-19.) Plaintiff is directed to prepare further responses, without objection, and to produce all responsive documents by **May 28, 2010**, to numbers 1-3, 6-33, 35-37, and 41-64. Plaintiff shall pay Defendants \$4,240.00 in sanctions. As Defendants' attorney's time spent in preparation of the reply and his attendance at the hearing are prospective, that time was not included in the sanctions award.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

### **TENTATIVE RULING**

**Case:** In re claim of Salina Garza  
Case No. CV P2 10-49

**Hearing Date:** April 28, 2010 **Department Fifteen** **9:00 a.m.**

When a minor has a disputed claim for damages and does not have a guardian of the estate, the following persons have the right to compromise the claim, unless the claim is against such person or persons: (1) either parent if the parents of the minor are not living separate and apart, and (2) the parent having the care, custody, or control of the minor if the parents of the minor are living separate and apart. (Prob. Code, § 3500.) Petitioner states that he is the minor's parent. Petitioner does not state whether the minor's parents are living separate and apart and, if the minor's parents are living separate and apart, that the petitioner is the parent having the care, custody, or control of the minor.

If the petitioner submits a verified statement establishing the above facts, the petitioner and the minor are directed to appear at the hearing or to show good cause why the petitioner and minor should not be required to appear. (Cal. Rules of Court, rule 7.952.) If the petitioner and the minor choose to show good cause, they should do so by filing a declaration before the hearing setting forth the facts supporting good cause. If the parties fail to appear at the hearing and the court has not excused their personal appearance, the petition will be denied without prejudice.

### **TENTATIVE RULING**

**CASE:**                    **Maki v. Walton**  
                              **Case No. CV UD 10-767**

**Hearing Date:**       **April 28, 2010**                    **Department Fifteen**                    **9:00 a.m.**

Defendant Steven Walton's unopposed motion for summary judgment is **DENIED**. Defendant's motion is accompanied by a proof of service that shows service of a copy of the motion papers on the plaintiff at an address that is different from the address of record for the plaintiff, as shown on the complaint.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

### **TENTATIVE RULING**

**Case:**                    **Security Pacific Financial Group, Inc. v. Church in Davis**  
                              **Case No. CV G 09-2050**

**Hearing Date:**       **April 28, 2010**                    **Department Fifteen**                    **9:00 a.m.**

Defendants' unopposed motion for leave to amend the answer is **GRANTED**. (Code Civ. Proc., § 473.) Defendants shall file its amended answer by May 7, 2010.

Defendants request of attorney's fees and costs is **DENIED**. (Civ. Code, § 1717.) Ordinarily, the Court does not consider the validity of the proposed amended pleading in deciding whether to grant leave to amend. Grounds for demurrer or motion to strike are premature. After leave to amend is granted, the opposing party will have the opportunity to attack the validity of the amended pleading. (*Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

### **TENTATIVE RULING**

**Case:**                    **Soltero v. Best Value Continental Inn & Suites**  
                              **Case No. CV CV 08-1430**

**Hearing Date:**       **April 28, 2010**                    **Department Fifteen**                    **9:00 a.m.**

Defendants' unopposed motion to compel responses to form and special interrogatories, and requests for production of documents and to deem requests for admissions admitted and for sanctions is **GRANTED**. (Code Civ. Proc., §§ 2023.010 *et seq.*, 2030.290, 2031.300 & 2033.280; Cal. Rules of Court, rule 3.1030.) Defendants' requests for admissions, set one, are deemed admitted. Plaintiff shall serve verified responses to defendant's form interrogatories, set one, special interrogatories, set one, and request for production of documents, set one, and all responsive documents, without objections, by **May 3, 2010**. Plaintiff shall also pay defendants \$2,015.00 in sanctions by **May 3, 2010**. As defendants' attorney's time spent at the hearing on the *ex parte* application and at the hearing on the motion to compel was estimated and prospective, that time was not included in the sanctions award.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.